

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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|-------------------------------|---|---|
| Annamarie Trombetta, |) | |
| |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| |) | Civil Action No: 18-cv-00993 (RA) (SLC) |
| v. |) | |
| |) | |
| Norb Novocin, <u>et al.</u> , |) | |
| |) | |
| |) | |
| |) | |
| Defendants. |) | |
| |) | |

**NOTICE TO *PRO SE* LITIGANT WHO OPPOSES A RULE 12 MOTION SUPPORTED
BY MATTERS OUTSIDE THE PLEADINGS**

The defendant in this case has moved to dismiss or for judgment on the pleadings pursuant to Rule 12(b) or 12(c) of the Federal Rules of Civil Procedure, and has submitted additional written materials. This means that the defendant has asked the Court to decide this case without a trial, based on these written materials. You are warned that the Court may treat this motion as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. For this reason, THE CLAIMS YOU ASSERT IN YOUR COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF YOU DO NOT RESPOND TO THIS MOTION ON TIME by filing sworn affidavits as required by Rule 56(c) and/or other documents. The full text of Rule 56 of the Federal Rules of Civil Procedure is attached.

In short, Rule 56 provides that you may NOT oppose the defendant's motion simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising

specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion.

If you do not respond to the motion on time with affidavits and/or documents contradicting the facts asserted by the defendant, the Court may accept defendant's facts as true. Your case may be dismissed and judgment may be entered in defendant's favor without a trial. If you have any questions, you may direct them to the Pro Se Office.

Dated: January 29, 2021

Respectfully Submitted,

/S/

Arnold P. Lutzker (Admitted *Pro Hac Vice*)
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*Attorney for Defendants WorthPoint
Corporation and Seippel*

CERTIFICATE OF SERVICE

I, Arnold P. Lutzker, hereby certify that on January 29, 2021, I electronically filed a true copy of the foregoing Notice to *Pro Se* Litigant with the Clerk of the Court by using the CM/ECF system. I also certify that the foregoing document is being served this day upon Plaintiff Trombetta at the following address:

Annamarie Trombetta
175 East 96th Street (Apt. 12 R)
New York, NY 10128

I made such service by personally enclosing the aforementioned document in a properly addressed, prepaid box and delivering it to an official depository under the custody of the United States Postal Service within the District of Columbia.

/S/
Arnold P. Lutzker